



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/843,614	04/25/2001	Bryan C. Gebhardt	19502-04564	7671
44367	7590	05/31/2005		
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A./OPTV P.O. BOX 2938 MINNEAPOLIS, MN 55402-0938				
			EXAMINER	
			BENGZON, GREG C	
			ART UNIT	PAPER NUMBER
			2144	

DATE MAILED: 05/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/843,614

Applicant(s)

GEBHARDT ET AL

Examiner

Greg Bengzon

Art Unit

2144

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This application has been examined. Claims 1-41 are pending. Claim 19 has been amended to correct a typographical error. No new Claims have been submitted.

#### ***Priority***

This application is a continuation-in-part of a prior application. This application claims benefits of priority from parent application 09/333724 filed on June 15, 1999.

The effective date of the claims in this application is June 15, 1999.

#### ***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on 03/16/2005 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 9-13, 17-30, 33-36, 40-41 rejected under 35 U.S.C. 103(a) as being unpatentable over Howe et al. (US Patent 6502242) hereinafter referred to as Howe, in view of Filepp et al. (US Patent 6195661), hereinafter referred to as Filepp.

With respect to Claim 1, Howe discloses a computer implemented method of updating an interactive application broadcast from a broadcast system to a reception device over a transmission medium, ( Column 2 Lines 1-65, Column 3 Lines 1-65, Column 4 Lines 1-65, Column 5 Lines 1-65, Column 19 Lines 25-65, Column 20 Lines 1-45, Column 21, Lines 20-65, Column 22 Lines 1-55, Column 26 Lines 25-65, Column 27 Lines 1-55, Column 29 Lines 10-65, Column 18 Lines 20-60, Column 15 Lines 10-60).... the method comprising: receiving at the broadcast system a broadcast signal including at least one information of a first interactive application; ( Column 2 Lines 1-65, Column 3 Lines 1-65, Column 4 Lines 1-65, Column 5 Lines 1-65, Column 19 Lines 25-65, Column 20 Lines 1-45, Column 21, Lines 20-65, Column 22 Lines 1-55, Column 26 Lines 25-65, Column 27 Lines 1-55, Column 29 Lines 10-65, Column 18 Lines 20-60, Column 15 Lines 10-60) selecting a second interactive application, and broadcasting information of the second interactive application to the reception device in place of at least some of the information of the first interactive application, for execution of the second interactive application by the reception device; ( Column 2 Lines 1-65, Column 3 Lines 1-65, Column 4 Lines 1-65, Column 5 Lines 1-65, Column 19 Lines 25-65, Column 20 Lines 1-45, Column 21, Lines 20-65, Column 22 Lines 1-55, Column 26 Lines 25-65, Column 27 Lines 1-55, Column 29 Lines 10-65, Column 18 Lines 20-60, Column 15 Lines 10-60) receiving at the broadcast system in the broadcast signal

Art Unit: 2144

additional information regarding the first interactive application; and broadcasting from the broadcast system selected additional information to the reception device, for execution of the second interactive application in conjunction with the additional information. (Figure 1, Figure 6, Figure 10, Column 2 Lines 1-65, Column 3 Lines 1-65, Column 4 Lines 1-65, Column 5 Lines 1-65, Column 19 Lines 25-65, Column 20 Lines 1-45, Column 21, Lines 20-65, Column 22 Lines 1-55, Column 26 Lines 25-65, Column 27 Lines 1-55, Column 29 Lines 10-65, Column 18 Lines 20-60, Column 15 Lines 10-60, Column 19 Lines 25-55)

With respect to Claim 2, Howe discloses the method of claim 1, wherein the second interactive application is a customized version of the first interactive application. (Column 3 Lines 55-60, Column 7 Lines 40-45, Column 9 Lines 50-65)

With respect to Claim 3, Howe discloses the method of claim 1, wherein the first interactive application is broadcast over a first transport protocol, and the second interactive application is broadcast over a second transport protocol. (Column 3 Lines 55-60, Column 7 Lines 40-45, Column 9 Lines 50-65)

With respect to Claim 4, Howe discloses the method of claim 1, wherein the first interactive application is broadcast, over an analog transport protocol, and the second interactive application is broadcast over a digital transport protocol. (Column 3 Lines 55-60)

With respect to Claim 5, Howe discloses the method of claim 4, wherein the analog transport protocol is the vertical blanking interval of an analog broadcast television signal. (Column 3 Lines 55-60)

With respect to Claim 6, Howe discloses the method of claim 4, wherein the digital transport protocol is an MPEG signal. (Column 9 Lines 50-65)

With respect to Claim 9, Howe discloses The method of claim 4, wherein broadcasting the additional information to the reception device further comprises converting the updated information from a format compatible with the analog transport protocol to a format compatible with the digital transport protocol. (Column 8 Lines 1-30, Column 10 Lines 10-20)

With respect to Claim 10, Howe discloses the method of claim 1, wherein broadcasting selected updated additional information to the reception device further comprises: selecting an additional information that is an update of a corresponding information of the second interactive application. (Column 25 Lines 20-25, Column 26 Lines 40-50)

With respect to Claim 11-13, Howe substantially discloses the method of claim 10, wherein additional information that is an update of the corresponding information of the second interactive application is received and broadcast. (Column 25 Lines 20-25, Column 26 Lines 40-50)

With respect to Claim 17, Howe discloses the method of claim 1, further comprising: receiving at the broadcast system in the broadcast signal, control information for controlling execution of the second interactive application at the reception device; and broadcasting the control information to the reception device. (Column 21 Lines 20-65, Column 19 Lines 25-60)

With respect to Claim 18, Howe discloses a system for updating an interactive application broadcast from a broadcast system to a reception device over a transmission medium, the system comprising: a code detector adapted to receive a broadcast signal and identify codes in the signal that relate to a change in a state of a first interactive application, and that provides outputs signals indicative of the change of state (Column 2 Lines 1-65, Column 3 Lines 1-65, Column 4 Lines 1-65, Column 5 Lines 1-65, Column 19 Lines 25-65, Column 20 Lines 1-45, Column 21, Lines 20-65, Column 22 Lines 1-55, Column 26 Lines 25-65, Column 27 Lines 1-55, Column 29 Lines 10-65, Column 18 Lines 40-50, Column 10 Lines 10-20); a server that maintains state information for the first interactive application in response to the output signals from the code detector, and in response to the state of the first interactive application, outputs commands to start or stop the output of updated information of the interactive application; (Column 2 Lines 1-65, Column 3 Lines 1-65, Column 4 Lines 1-65, Column 5 Lines 1-65, Column 19 Lines 25-65, Column 20 Lines 1-45, Column 21, Lines 20-65, Column 22 Lines 1-55, Column 26 Lines 25-65, Column 27 Lines 1-55, Column 29 Lines 10-65, Column 18 Lines 40-50, Column 10 Lines 10-20) a code reader, adapted

Art Unit: 2144

to read interactive application codes of an interactive application and to identify information of the first interactive application that are updates of corresponding information of a second interactive application stored a broadcast server, and communicatively coupled to the server, that selectively provides the updated information to the broadcast server in response to the commands from the server ((Column 2 Lines 1-65, Column 3 Lines 1-65, Column 4 Lines 1-65, Column 5 Lines 1-65, Column 19 Lines 25-65, Column 20 Lines 1-45, Column 21, Lines 20-65, Column 22 Lines 1-55, Column 26 Lines 25-65, Column 27 Lines 1-55, Column 29 Lines 10-65, Column 18 Lines 40-50, Column 10 Lines 10-20, Column 18 Lines 40-50) ; and a broadcast server that broadcasts the second interactive application to reception devices for execution by the reception devices in place of the first interactive application, and selectively broadcasts the updated information to the reception devices, for execution of the second interactive application in conjunction with the updated information. (Figure 1, Figure 6 Items 8 Item 9, Figure 10, Column 18 Lines 20-60, Column 15 Lines 10-60, Column 17 Lines 20-40) Examiner notes that the content provider (Item 41 and 42 ) is able to communicate directly with network service provider (Item 10) and hence also with STB (Item 100).

With respect to Claim 19, Howe discloses the system of claim 18, wherein the code detector identify codes that relates to a change in the state of an interactive application by detecting changes in an interactive application identification code. (Column 4 Lines 20-30, Column 18 Lines 1-15)



With respect to Claim 20, Howe discloses the system of claim 18, wherein the code detector identifies codes that relate to a change in the state of an interactive application by detecting a new interactive application identification code. (Column 12 Lines 20-25, Column 17 Lines 20-65)

With respect to Claim 21, Howe discloses the system of claim 20, wherein the server in response to an output signal of the code detector indicating a new interactive identification code, commands the code reader to start providing updated information to the broadcast server. (Column 25 Lines 20-35)

With respect to Claim 22, Howe discloses the system of claim 18, wherein the code detector identifies codes that relate to a change in the state of an interactive application by detecting an absence of an interactive application identification code in the broadcast signal for a predetermined amount of time. (Column 8 Lines 1-65, Column 15 Lines 25-30, Column 25 Lines 20-35)

With respect to Claim 23, Howe discloses the system of claim 22, wherein the server in response to an output signal of the code detector indicating an absence of the interactive identification code for the predetermined time, commands the code reader to stop providing updated information of the second interactive application to the broadcast server. (Column 8 Lines 1-65, Column 17 Lines 25-30, Column 18 Lines 20-30, Column 19 Lines 30-50, Column 25 Lines 20-35)

With respect to Claim 24, Howe discloses the system of claim 18, wherein the code reader caches updated information prior to receiving a command from server to provide updated information to the broadcast server. (Figure 6, Column 18 Lines 20-60, Column 19 Lines 30-50, Column 20 Lines 1-40)

With respect to Claim 25, Howe discloses the system of claim 18, wherein the code detector detects commands for controlling execution of the first interactive application in a preserved portion of the broadcast signal, and the code reader provides the commands to the broadcast server for broadcasting to the reception device. (Column 8 Lines 1-65, Column 17 Lines 25-30, Column 18 Lines 20-65, Column 19 Lines 30-50, Column 25 Lines 20-35)

With respect to Claim 26-30 and Claims 33-36 the applicant discloses substantially the same limitations as described in Claims 1-17. Claim 26-30 and Claims 33-36 are rejected on the same basis as Claims 1-17.

With respect to Claims 40-41 the applicant describes a computer implemented method and computer readable medium with the same limitation as Claim 1. Claims 40-41 are rejected on the same basis as Claim 1.

However with respect to Claims 1-6, 9-13, 17-30, 33-36, 40-41, while Howe discloses providing update information to the second interactive application, Howe does not disclose the method of storing and updating records for the interactive applications. With respect to Claims 10-13 and Claims 22-25 Howe does not disclose the method wherein selecting an additional record that is an update of a corresponding record of the second interactive application further comprises: storing for each record of the first interactive application a current sequence number; determining whether a sequence number for a received additional record of the first interactive application exceeds the current sequence number for the record; and responsive to the determination that the sequence number exceeds the stored sequence number, selecting the additional record, and adjusting the stored sequence number for the additional record to the received sequence number. Howe does not disclose the method wherein broadcasting a selected additional record to the reception device further comprises: broadcasting an updated additional record only if the additional record is compatible with a corresponding record in the second interactive application. Furthermore, while Howe discloses of storing the updates in various types of memory storage of the interactive server, Howe does not specifically mention the concept of caching records.

Filepp discloses a method for locating and updating application records in an interactive-services database, wherein the information on the interactive application is broken down into objects and elements, with each object record header providing data regarding the objects identification, anticipated use, association to other objects, its

Art Unit: 2144

length, its version and its currency. (Column 6 Lines 40-50, Column 11 Lines 1-10, Column 12 Lines 50-55, Column 13 Lines 30-35, Column 23 Lines 20-35, Column 26 Lines 60-65) Filepp discloses of an object interpreter and object processor that determines whether the received update object is of a certain type and will look for the matching object on the database, thereby ensuring compatibility of the updates records. (Column 25 Lines 55-65, Column 26 Lines 1-65) Filepp discloses the concept of caching update records (Column 27 Lines 20-65).

Howe and Filepp are analogous art because they both present concepts and practices regarding delivery of content for interactive applications over broadcasting networks. It is respectfully suggested that it would have been obvious to a person of ordinary skill in the art to combine the teachings of Filepp with regards to locating, object type matching, version checking, currency checking, caching and updating interactive application records into the methods of Howe. The suggested motivation would be, as Filepp suggests, so that the network can supply information and transactional support to the user at minimal cost with a minimal response time.

Therefore it would have been obvious to combine the teachings of Filepp into the method of Howe in order to arrive at the invention as described in Claims 1-6, 9-13, 17-30, 33-36, 40-41.

Claims 14-16, 37-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Howe et al. (US Patent 6502242) hereinafter referred to as Howe, in view of Filepp

et al. (US Patent 6195661), hereinafter referred to as Filepp, further in view of Chen et al. (US Patent 6269374), hereinafter referred to as Chen.

With respect to Claims 14-16 and Claims 37-39, the combined teachings of Howe and Filepp, when applied together, are enough to disclose the invention as described by the applicant.

However the combined teachings of Howe and Filepp do not disclose matching a first checksum of the non-content portions of the additional records of the first interactive application with a first checksum on the non-content portions of the corresponding records containing variable content. The combined teachings of Howe and Filepp do not disclose matching a second checksum of static portions of records of the first interactive application with a second checksum of static portions of records of the second interactive application.

Chen discloses a method and apparatus for calculating checksums of data structures. Chen teaches that it is advantageous to calculate the checksum using the static portion of the data structure, and also calculate a separate checksum for the variable contents of the data structure. (Figure 4, Column 1 Lines 35-45, Column 2 Lines 30-35, Column 5 Lines 40-65, Column 6 Lines 20-65)

Howe, Filepp and Chen are analogous art because they present concepts and practices regarding content delivery for interactive applications. It is respectfully suggested that it would have been obvious to a person of ordinary skill in the art to combine the teachings of Chen with regards to calculating checksums for interactive application records into the combined methods of Howe and Filepp. The suggested

Art Unit: 2144

motivation would be, as Chen suggests, so that the checksum methods may be used for error checking may be implemented without degradation in quality of service. (Column 2 Lines 10-20, Column 9 Lines 30-40)

Therefore it would have been obvious to combine the teachings of Chen into the combined method of Howe and Filepp in order to arrive at the invention as described in Claims 14-16 and Claims 37-39.

Claims 7,8,31 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Howe et al. (US Patent 6502242) hereinafter referred to as Howe, in view of Filepp et al. (US Patent 6195661), hereinafter referred to as Filepp, further in view of Wistendahl (US 6496981 B1), hereinafter referred to as Wistendahl.

With respect to Claims 7,8,31 and 32, the combined teachings of Howe and Filepp, when applied together, are enough to disclose the invention as described by the applicant.

However the combined teachings of Howe and Filepp do not disclose the method of using a digital transport protocol consisting of an ATVEF or HTTP signal.

Wistendahl discloses a system for converting media content for interactive TV , wherein the system is able to accept HTTP or HDTV signals. (Column 1 Lines 45-60, Column 3 Lines 30-40).

Howe, Filepp and Wistendahl are analogous art because they present concepts and practices regarding content delivery for interactive applications. It is respectfully

Art Unit: 2144

suggested that it would have been obvious to a person of ordinary skill in the art to combine the teachings of Wistendahl with the combined methods of Howe and Filepp in order to accept HTTP or HDTV signals for the interactive applications. The suggested motivation would be, as Wistendahl suggests, so that media content is converted for interactive TV use without locking it in to any particular delivery system or display platform. (Column 2 Lines 30-40)

Therefore it would have been obvious to combine the teachings of Wistendahl into the combined method of Howe and Filepp in order to arrive at the invention as described in Claims Claims 7,8,31 and 32.

### ***Response to Arguments***

Applicant's arguments filed 03/16/2005 have been fully considered but they are not persuasive. The reasons for non-persuasiveness are set forth below.

The Examiner maintains the rejection of Claims 1-6, 9-13, 17-30, 33-36, 40-41 under 35 U.S.C. 103(a) as being unpatentable over Howe et al. (US Patent 6502242) in view of Filepp et al. (US Patent 6195661).

The Applicant suggests that numerous limitations of claims 1 are not described or even suggested in either Howe or Filepp. For example, both Howe and Filepp neither

Art Unit: 2144

disclose nor even suggest the limitations of selecting a second interactive application, and broadcasting records of the second interactive application to the reception device in place of at least some of the records of the first interactive application, for execution of the second interactive application by the reception device and broadcasting from the broadcast system selected ones of the additional records to the reception device, for execution of the second interactive application in conjunction with the additional records.

The Applicant suggests that Figures 1, 6 and 10 show an interactive server but do not

in any way disclose or even suggest the limitations of broadcasting records of the second interactive application to the reception device in place of at least some of the records of the first interactive application, for execution of the second interactive application by the reception device and broadcasting from the broadcast system selected ones of the additional records to the reception device, for execution of the second interactive application in conjunction with the additional records.

In view of the above, it is submitted that claim 1 is allowable. As claims 2-17 are dependent upon claim 1 they are also allowable.

The Examiner respectfully disagrees with the Applicant arguments and refers the Applicant to Howe Column 2 Lines 50-65, where Howe disclosed the need to provide a seamless transition between broadcast programs, said programs including



interactive applications. In Column 3 Lines 10 and Column 4 Lines 5-15 Howe disclosed of an interactive server that stores one or more interactive applications that are available for viewing by the subscribers. In Column 3 Lines 30-55 Howe outlines the method of using a callback address in order to provide the seamless transition from one interactive program to another. Based on the aforementioned citations the Examiner suggests that Howe disclosed replacing one interactive application with a second interactive application.

With respect to execution of the second interactive application in conjunction with the additional records, the Examiner notes that in Column 3 Lines 65 thru Column 4 Lines 1-5 Howe disclosed transmitting additional information, said information to be used at the subscriber site ('local site') to generate a screen image indicating the availability of additional content from the service provider. In Column 19 Lines 25-60 Howe disclosed of nationally originating programs and of local programs, each having individual callback addresses recognizable by the interactive server. From the aforementioned citations the Examiner suggests that Howe disclosed having a first interactive application and a customized (second) version of the said interactive application.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). The Examiner respectfully refers the Applicant to Filepp Column 6 Lines 35-60

Art Unit: 2144

where Filepp disclosed a reception system (RS) which includes a means to selectively store objects (for an interactive application) according to a predetermined storage criterion. Thus the Examiner suggests that Filepp provides Howe a method to selectively update the local version with the national version of any one interactive application, or vice versa, as applied to broadcast media (Filepp Column 7 Lines 10-15 Column 23 Lines 20-30).

Claim 42 also includes the limitation of broadcasting records of the second interactive application to the reception device in place of at least some of the records of the first interactive application, for execution of the second interactive application by the reception device." In view of the above the Applicant suggests that claim 42 is allowable.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). The Examiner respectfully refers the Applicant to Filepp Column 6 Lines 35-60 where Filepp disclosed a reception system (RS) which includes a means to selectively store objects (for an interactive application) according to a predetermined storage criterion. Thus the Examiner suggests that Filepp provided Howe a method to selectively update the local version with the national version of any one interactive

application, or vice versa, as applied to broadcast media (Filepp Column 7 Lines 10-15 Column 23 Lines 20-30).

Claim 41 includes the limitations of: broadcasting records of the customized version of the first interactive application to the reception device in place of the records of the first interactive application; receiving at the broadcast system additional records of the first interactive application and responsive to determining that an additional record is an update of a corresponding record of the customized interactive application, broadcasting the additional record to the reception device, for execution of the customized application in conjunction with the additional record... In view of the remarks above the Applicant suggests that claim 41 is also allowable.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). The Examiner respectfully refers the Applicant to Filepp Column 6 Lines 35-60 where Filepp disclosed a reception system (RS) which includes a means to selectively store objects (for an interactive application) according to a predetermined storage criterion. Thus the Examiner suggests that Filepp provided Howe a method to selectively update the local version with the national version of any one interactive

Art Unit: 2144

application, or vice versa, as applied to broadcast media (Filepp Column 7 Lines 10-15 Column 23 Lines 20-30).

Claim 18 includes the limitations of: a server that maintains state information for the first interactive application in response to the output signals from the code detector, and in response to the state of the first interactive application, outputs commands to start or stop the output of updated records of the interactive application; a code reader, adapted to read interactive application codes of an interactive application and to identify records of the first interactive application that are updates of corresponding records of a second interactive application stored in a broadcast server, and communicatively coupled to the server, that selectively provides the updated records to the broadcast server in response to the commands from the server. . .

The Applicant suggests that Howe in no way describes or even suggests all the limitations of claim 18 as set out above. For example, the above section from Howe does not describe or even suggest the limitation of code reader, adapted to read interactive application codes of an interactive application and to identify records of the first interactive application that are updates of corresponding records of a second interactive application stored in a broadcast server. This limitation is also not described or even suggested in Filepp.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections

Art Unit: 2144

are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). The Examiner respectfully refers the Applicant to Filepp Column 6 Lines 35-60 where Filepp disclosed a reception system (RS) which includes a means to selectively store objects (for an interactive application) according to a predetermined storage criterion. Thus the Examiner suggests that Filepp provided Howe a method to selectively update the local version with the national version of any one interactive application, or vice versa, as applied to broadcast media (Filepp Column 7 Lines 10-15, Column 23 Lines 20-30).

The Examiner maintains the rejection of Claims 14-16, 37-39 under 35 U.S.C. 103(a) as being unpatentable over Howe et al. (US Patent 6502242) in view of Filepp et al. (US Patent 6195661), further in view of Chen et al. (US Patent 6269374).

The Examiner maintains the rejection of Claims 7, 8, 31 and 32 under 35 U.S.C. 103(a) as being unpatentable over Howe et al. (US Patent 6502242) in view of Filepp et al. (US Patent 6195661) further in view of Wistendahl (US 6496981 B1).

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greg Bengzon whose telephone number is (571) 272-3944. The examiner can normally be reached on Mon. thru Fri. 8 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

gcb

  
**DAVID WILEY**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2100**